

MEETING MINUTES CITY OF MILPITAS

Minutes of: Joint Meeting of Milpitas City Council and
the Milpitas Housing Authority
Date: Tuesday, January 15, 2019
Time: 6:00 PM Closed Session
7:00 PM Open Session
Location: Council Chambers, Milpitas City Hall,
455 East Calaveras Blvd., Milpitas

CALL TO ORDER Mayor Tran called the joint meeting to order at 6:00 PM. City Clerk Mary Lavelle called the roll.

PRESENT: Mayor Tran, Vice Mayor Dominguez, Councilmembers Montano, Nuñez and Phan

ABSENT: None

CLOSED SESSION City Council convened in Closed Session to discuss one arbitration matter on the agenda. City Attorney Chris Diaz stated that Mayor Tran recused himself from the Closed Session item.

ANNOUNCEMENT City Attorney did not have any announcement out of Closed Session.

City Council convened at the dais for the Open Session regular agenda at 7:00 PM.

PLEDGE Local Girl Scouts from Troop No. 61192 presented the flags and led the pledge of allegiance.

INVOCATION Councilmember Nuñez read a quote aloud regarding women, in advance of the San Jose Women's March scheduled for the following weekend.

PRESENTATION Mayor Tran commended Milpitas student Nithurhan Carthikeyan, Milpitas Library e-waste recycling coordinator.

Mayor Tran and the City Council commended and recognized retiring Milpitas Police Department Captain Daryl Sequeira, after serving the City of Milpitas for 27 years.

PUBLIC FORUM Alysson McDonald, resident, reminded the City Council of urgency on adopting residential rental protection soon.

A man, resident, spoke of serious parking issues in the part of Milpitas near where the new BART station is built. There were not enough spaces and needed to be fixed soon. He lived in The Metro neighborhood behind Great Mall.

A woman spoke of a recent report issued regarding criminal cases and concerns about the City when the BART was opened.

A woman, homeowner since 2001, spoke of building new homes near the BART station and concern about crime in Milpitas and a potential increase.

Robert Marini, resident, spoke in response to a mailer he received in his mailbox. He wanted some specific information of water rates, on a spreadsheet. He asked when he would get that.

Councilmember Phan addressed Mr. Marini.

Stacy Brobst, The Pines resident, reminded Council that there was supposed to be a permit parking program in that neighborhood, and residents looked forward to it getting implemented.

ANNOUNCEMENTS

City Manager Julie Edmonds-Mares updated the City Council about a major effort completed to repair a significant sinkhole on Montague Expressway the previous weekend. She thanked Public Works Director Tony Ndah and others to get the roadway and underground utilities repaired rapidly over the weekend, so that the road re-opened prior to Monday morning commute.

Mayor Tran asked staff to bring back the issue of the electronic billboard for an update to City Council, and to provide options the Council could explore.

Councilmember Montano reported that she'd attended a Well Water Workshop to learn about water issues, along with statewide leaders. She asked about which governments paid the costs of repair of that sinkhole, and wanted to ensure the County (or others) paid its fair share. Ms. Montano requested a future Commissions discussion, to possibly re-organize some, and to form a Transportation Commission regarding roads and traffic issues.

Councilmember Phan wanted pull agenda item no. C3 (ordinance to ban commercial cannabis) but wanted his colleagues to keep it on consent. He announced that would support his colleagues in support of the staff recommendation to approve the ordinance.

Councilmember Nuñez was supportive of having a new Transportation Commission, and the billboard signs discussion. He asked the City Manager what she was bringing back to Council. City Attorney Diaz recommended that the City Council could remove item no. 18 (preview Feb. 5 agenda) to have more conversation about agenda items on which meeting dates.

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

City Attorney Diaz asked Councilmembers if they had any personal conflicts of interest or reportable campaign contributions. By roll call, none were reported.

APPROVAL OF AGENDA

Motion: to approve the meeting agenda, as amended removing items no. C8 - C11

City Manager Julie Edmonds-Mares made a request to remove the four Commission workplan agenda items from this agenda and be deferred to a future date.

Motion/Second: Councilmember Montano/Councilmember Nuñez

Motion carried by a vote of: AYES: 5
NOES: 0

CONSENT CALENDAR

Motion: to approve the Consent Calendar including agenda items numbered 1-5, 7, 12, 13, and 15

Councilmember Nuñez requested to remove agenda items no. 6, 16, 17 and 18 from consent.

Councilmember Montano requested to remove item no. 14.

Motion/Second: Councilmember Nuñez/Councilmember Montano

Motion carried by a vote of: AYES: 5
NOES: 0

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| * 1. Council Calendars | Accepted the City Council calendar for January 2019. |
| * 2. Meeting Minutes | Approved City Council meeting minutes of December 18 and 19, 2018. |
| * 3. Adopt Ordinance | Waived the second reading and adopted Ordinance No. 298 to prohibit Commercial Cannabis in the City and regulate cultivation of Cannabis for Personal Use. This is the permanent ban |

* 4. Adopt Resolution	<p>Adopted Resolution No. 8838 amending the Classification Plan by establishing the classifications of Entry Firefighter and Entry Firefighter Paramedic, authorizing the addition of three Full Time Equivalent Firefighter Paramedic positions and one Full Time Equivalent Fire Battalion Chief to the City's Authorized Positions List; and, approved a budget amendment to appropriate \$60,000 in the Fire Department's FY 2018-19 General Fund Operating Budget to fund the incremental salary and benefits for one Fire Battalion Chief position over and above what the SAFER Grant would support.</p>
* 5. Adopt Resolution	<p>Adopted Resolution No. 8839 approving the sole source purchase of two JWC Environmental Channel Monster Model CDD6020 Grinders for Public Works from MISCOWater for the amount not to exceed \$226,250.</p>
6. Adopt Resolution	<p>Information Services Director Mike Luu came forward to answer questions about the agreement with software vendor Cayenta.</p> <p>Councilmember Nuñez asked about the process for this agreement, inquiring if the City went out to bid or how the vendor was selected. Mr. Luu explained the City did go out to bid, over 20 years ago, for this Finance Department need for financial management software. It was a sole source only provide for the software upgrade.</p> <p><u>Motion:</u> to adopt Resolution No. 8840 approving a Professional Services Agreement with Cayenta, a Division of N. Harris Computer Corporation Inc., as the sole source vendor to implement an upgrade of the Financial and Utility Billing Software Systems for a total amount not to exceed \$419,892; and, to authorize the City Manager to execute the agreement, subject to any revisions deemed necessary by the City Attorney</p> <p>Motion/Second: Councilmember Nuñez/Councilmember Phan</p> <p>Motion carried by a vote of: AYES: 5 NOES: 0</p>
* 7. Appointment to SBOSG	<p>Received recommendation from the Energy and Environmental Sustainability Commission (EESC) and appointed EESC Commissioner Chia Ling Kong as Community Representative to the South Bay Odor Stakeholders Group.</p>
* 8. CAC Work plan	
* 9. Energy Work plan	
*10. Library Work plan	
*11. Technology Work plan	<p>Items No. C8 – C11 (four Commission workplans) were removed from the agenda.</p>
*12. Out of State Travel	<p>Approved out of state travel for three Milpitas Fire Department personnel to conduct a final inspection of the new Tiller Truck Fire Apparatus at the Pierce Factory in Appleton, WI for the dates of January 21 - 24, 2019.</p>
*13. Approve Final Map	<p>Approved Final Map Tract No. 10408 Centre Pointe at 1646 Centre Pointe Drive, acceptance of all offers of dedications as stated and depicted on the Final Map upon completion and acceptance of improvements.</p>
14. Approve Stormwater Management Agreement	<p>Councilmember Montano asked about bioswales at this location, and if those were called for in the agreement. City Engineer Steve Erickson explained that the developer installed those, and the agreement was for maintenance of the facilities in perpetuity with City inspection for compliance.</p> <p><u>Motion:</u> to authorize the City Manager to execute a Stormwater Management Facilities Operation and Maintenance Agreement with McCarthy Center Holdings LLC for development at 400-940 North McCarthy Boulevard</p>

Motion/Second:

Councilmember Montano/Vice Mayor Dominguez

Motion carried by a vote of:

AYES: 5

NOES: 0

***15. Award Bid to Crayon Software Experts**

Awarded the bid for IFB No. 2281 to Crayon Software Experts, LLC for the purchase of 500 Microsoft 365 Licenses for the Information Services Department for a three-year license period in the amount not to exceed \$277,620. Authorized the Purchasing Agent to pay for year two and three without further City Council action, except for appropriation of funds.

16. Kinsale Insurance

Councilmember Montano wished to make sure that tax dollars were well spent. She asked staff for background on this matter. Finance Director Will Fuentes explained the goal for protection of potential employment liability cases, which could occur in the City. This was due to the fact that the City was 100% exposed currently for such cases.

Councilmember Nuñez thanked staff for providing an explanation. He said he was pro-insurance, while he had some questions to which staff replied.

Vice Mayor Dominguez commented, regardless of insurance, she wanted to stand by processes or procedures not to get into the need for this insurance. She wished to learn what the City was doing for staff and to see a document with that information.

Human Resources Director Liz Brown came forward to provide a high level response, stating that the city staff follow state law, managers were trained, and soon all employees would be required to be trained to understand their rights, regarding prevention of harassment.

Councilmember Phan appreciated how the Finance Director looked out for the City's finances.

Mayor Tran said he supported the Vice Mayor's comments 100%. He would support the item and supported Human Resources staff.

Councilmember Nuñez asked when was the budget meeting and the reply was January 29, 2019. Mr. Nuñez wanted to ensure supervisors were trained correctly. He did not support the recommendation.

Councilmember Montano asked for explanation about ABAG and pooled insurance. The City Manager described the pool recently begun to be created for employment liability insurance.

Councilmember Phan understood the points made by staff, but there was more to the conversation than the finances.

Vice Mayor Dominguez asked if the Council could request to bring this back later and the City Manager replied yes. Third party investigation of any harassment would be needed and to be transparent.

Councilmember Nuñez was supportive of bringing this back to Council, with more information on training and what was implemented, prior to the start of the new fiscal year on July 1.

Motion: to defer action this item and bring it back to Council before the end of the Fiscal Year, with more information about specific staff training, on what other cities are doing in this area, steps for creating a supportive work culture, and later to consider an Agreement with Kinsale Insurance Company to provide employment practices liability coverage for the city

Motion/Second:

Vice Mayor Dominguez/Councilmember Montano

Motion carried by a vote of:

AYES: 5

NOES: 0

17. Award Bid for Printing to Casey Printing, Inc.

Councilmember Montano asked the purpose of the printing contract, related to the quarterly City newsletter “Connected” and the annual minimum wage notification to businesses annually. She was concerned about cost and the actual need for printing. Public Information Officer Jennifer Yamaguma provided a response. Councilmember Montano wanted to be moving away from the printed newsletter and it perhaps could be sent via email.

Councilmember Nuñez was interested in the pros/cons of this contract, as noted on the report.

Vice Mayor Dominguez questioned some of the figures in the contract and staff report.

Councilmember Phan asked for explanation of the funding for this contract. Staff explained it was from the Economic Development unit budget and was to be moved over to the City Manager’s PIO budget line.

Mayor Tran invited public comments.

Rob Means, resident, remarked on the value for the quality of the newsletter which was doggone inexpensive. He felt it was a good product and a good way to communicate with citizens.

Alysson McDonald said she always read the entire newsletter when she received it in her mailbox. It was valuable telling residents what was on FaceBook, NextDoor, and social media and she appreciated it.

Motion: not to award the bid and not authorize the City Manager to execute the letter agreement with Casey Printing, Inc. for the City Manager’s Office Printing Services, and to direct staff to return to Council with a revised newsletter plan in the future, potentially an online publication along with culturally competent communication

Motion/Second: Councilmember Nuñez/Vice Mayor Dominguez

Motion carried by a vote of: AYES: 4
NOES: 1 (Montano)

18. Preview Next Agenda

City Manager Edmonds-Mares had heard the request for The Pines Parking item, and it would be on the next regular City Council agenda on February 5. She reviewed the list that was in the agenda packet. This was an opportunity for Councilmembers to comment on the next or upcoming meeting agendas.

Councilmember Nuñez wanted to know how to re-prioritize the list, and or for items requested to come back to Council. The City Manager replied that priorities would be discussed at the January 29 Budget study session, where staff would seek feedback from all of the Council.

Councilmember Montano asked about the digital billboard, and to place it on the next Council agenda. There was a need to do due diligence on this topic, she felt.

Mayor Tran supported her comment on that topic.

City Attorney Diaz noted that the Council might need to rescind past action taken.

Councilmember Montano also wanted a Transportation Commission formed, to review and go over Commission workplans, with the possibility to consolidate or add Commissions and to look at other cities’ Commissions.

The Council received the preview list of items for City Council meeting of February 5, 2019 (with no vote taken).

**COMMUNITY
DEVELOPMENT**

19. HOUSING AUTHORITY
Update on Housing Program

City Attorney Diaz announced that the topics for both items no. 19 and no. 20 would be heard together.

Director of Building and Housing Sharon Goei introduced staff Robert Musallam, and City partner Consuela Hernandez, from the County of Santa Clara office of supportive housing. The group gave a joint presentation.

Ms. Goei provided a thorough and detailed report on housing in Milpitas, and in particular referred to the calculation of the Regional Housing Needs Allocation (RHNA). Funds were distributed through the Association of Bay Area Governments. 3290 housing units was the current goal for housing production for City of Milpitas. She described sources of funding for construction of affordable units in the city, via actions by previous City Councils.

Housing Administrator Robert Musallam discussed affordable housing development in Milpitas: Sunnyhills Apartments (supported by HUD Section 8 vouchers), MonteVista Apartments at 1001 S. Main Street, and 355 Sango Court. Ms. Goei discussed Measure A resources from the approved countywide ballot measure.

County staff Consuela Hernandez defined affordable housing, its financing, and how government partners with various agencies and developers to bring housing to those who need it. She described what had been happening over the last two years at the Office of Supportive Housing with Measure A funds, including significant construction of housing units. She mentioned issuance of Notice of Funds Available (NOFA). She noted new construction opportunities possible with the City of Milpitas at Sango Court and S. Main Street properties.

Councilmembers commented and asked a variety of questions to all three staff. Some of these focused on assistance sought for renters and low income residents within the City.

Ms. Goei listed project considerations for three properties: 355 Sango Ct, South Main St and 308 Sango Ct. She also identified the actions needed for loan payments from the Bridge Housing for the Monte Vista Apartments.

Mayor Tran thanked staff for the presentation and for available staff from Bridge Housing, and then invited public comments from the audience.

Alysson McDonald, resident, asked about details of the funds for Sunnyhills Apartments.

A woman, spoke about housing to be built at Sango Ct. There was not enough parking built, and more was needed throughout Milpitas.

A man, wanted to understand the approval process for having new housing built and sought simplified language to understand.

A man spoke of being a veteran, and his family. Veterans needed to get more in this town.

A man, spoke about needing to find out considerations for housing and parking.

Rob Means, resident, spoke on Monte Vista Apartments with 50 units for investment of \$2 million would be great.

A man, a resident of Green Tree Way, had heard talk of affordable housing over 40 years in Milpitas, and it was a myth that parking was less than adequate.

Stacy Brobst, resident, was in favor of 355 Sango Ct. and urged Council to give the builder the funding needed.

Huascar Castro, was in favor of the funding for 355 Sango Ct.

Bob Stromburg, of Destination Home, a San Jose housing non-profit, was in favor of funding for 355 Sango Ct. to be built. He urged a focus on ELI units.

A man spoke in support of more affordable units, but was concerned about congestion and more cars in the new developments.

A man said money had to come from somewhere, when developers were asked to locate units somewhere, buyers had to pay costs.

Carolyn Bookheart, from RCD, wanted to say Thank You! to staff for bringing forward the request for funding.

Cindy, a resident, said this would have great impact on local residents, especially near the new BART station.

Vice Mayor Dominguez thanked staff for the information packed report. She asked staff for more explanation of the actions the Council was asked to take.

Councilmember Nuñez was fine with item no. 20. On item no. 19, researching \$65 million for affordable housing at 355 Sango Ct. was needed, and he made additional comments.

Motion: to approve the following actions:

- 1) Receive report from Building & Housing Director, Housing Authority Administrator and County staff on housing program status.
- 2) Direct staff to research a commitment level up to \$6.5 million of Housing Authority Funds for Affordable Housing Construction at 355 Sango Court.
- 3) Direct staff to initiate research to develop affordable housing on Housing Authority and City-owned properties on South Main Street.
- 4) Direct staff to review future development entitlement proposal for 308 Sango Court along with sources (including Measure A) and use of funds; and, authorized staff to process a predevelopment loan application for future City Council/Housing Authority Commission action.

Motion/Second: Councilmember Phan/Councilmember Nuñez

Motion carried by a vote of: AYES: 5
NOES: 0

20. HOUSING AUTHORITY
Adopt Joint Resolution

This matter was reviewed and discussed together with agenda item no. 19, above.

Motion: to adopt Joint Resolution No. HA 27 / 8841 / SA12 of the City Council, Housing Authority and Successor Agency authorizing the Executive Director of the Housing Authority to prepare and execute loan documents to forego the first 10 years of residual receipts loan payments for the Montevista Apartments located at 1001 South Main Street in Milpitas

Motion/Second: Councilmember Montano/Councilmember Phan

Motion carried by a vote of: AYES: 5
NOES: 0

21. Accessory Dwelling Units

Senior Planner Rozalynne Thompson provided an oral report explaining what Accessory Dwelling Units (ADU) were, new state legislation on those type of residences, and where local jurisdictions could become more engaged to encourage these homes. She defined the state's ADU law elements, including that parking was not always required. She explained where the law changed in 2019 with the details in the legislation.

Councilmember Montano asked about application of the City's Hillside ordinance to ADU law.

City Attorney Diaz noted that staff was correct, about ADUs that could be approved on a hillside parcel.

Mayor Tran commented on his concerns, which included concern for parking and wanted to know about setbacks and what other cities allowed, such as Fremont. Maybe consider two story ADUs, and no windows on second story of ADUs facing out onto the street.

Vice Mayor Dominguez did some research on nearby cities and how they dealt with ADUs. She remarked the city already had a lot of converted garage units, even without permits. Her concern was safety. To bring units into compliance, offer agreement to owners, if they rent to low income tenants, maybe waive some fees. Facades on garages need to have windows or not look like only a garage door. Check out the City of Santa Cruz, on policy and fees established.

Mayor Tran wanted to know if there was a program at the City to bring in owners to get units up to code.

Motion: to receive a report from Senior Planner Rozalynne Thompson and to support staff suggestions regarding future amendments to the City of Milpitas Municipal Code on zoning for Accessory Dwelling Units, in order to allow more affordable housing options in Milpitas

Motion/Second: Councilmember Montano/Vice Mayor Dominguez

Motion carried by a vote of: AYES: 5
NOES: 0

22. Short Term Rentals

This item was not heard, and would be carried over to a future agenda.

LEADERSHIP

23. Urgency Ordinance

This item was heard at 11:36 PM. Planning Director Ned Thomas explained the need for the urgency ordinance for a prohibition on cannabis/marijuana commercial establishments and to regulate personal use.

City Attorney Diaz advised the Mayor he could poll Councilmembers on how they may vote on the urgency ordinance, in advance, to allow audience members to learn how the vote might go. Mr. Diaz polled one by one on the vote of Council, and there was universal support for the ordinance.

Mayor Tran invited speakers from the audience. 26 people, primarily residents of the city, addressed the Mayor and City Council, thanking the members in advance for their anticipated vote to adopt the urgency ordinance prohibiting marijuana and cannabis commercial businesses in the City of Milpitas.

Mr. Diaz read aloud Ordinance No. 299, “An Urgency Zoning Ordinance of the City Council of the City of Milpitas pursuant to California Government Code Section 36937(c) adding Subsection XI-10-13.15 Entitled “Cannabis Uses” and Amending Subsection XI-10-13.05 Entitled “Home Occupation” of the Milpitas Municipal Code Title XI, Chapter 10, Section 13 to Regulate Cannabis Cultivation for Personal Use and to Prohibit All Commercial Cannabis Uses, and Making Findings of Exemption from Environmental Review pursuant to CEQA Guidelines Sections 15060(C)(3) and 15061 (b)(3).”

Motion: a) to receive all comments from 26 speakers; and, move to waive the reading beyond the title and adopt Urgency Zoning Ordinance No. 299 to prohibit commercial cannabis in the City and to regulate cultivation of cannabis for personal use

Motion/Second: Councilmember Montano/Councilmember Nuñez

Motion carried by a vote of: AYES: 5
NOES: 0

REPORT

Councilmember Phan departed the Council Chambers just prior to the next item.

24. Mayor's appointments

Mayor Tran presented a four page list of his own recommendations for appointments of City Councilmembers to serve as liaisons to 11 of the City's 12 Commissions, and for appointments to outside Committees, Boards and Agencies. He recommended all of those for appointment, with the exception of the Santa Clara Valley Transportation Authority Board Committees (City Council did not have authority to make those appointments).

Motion: to approve the Mayor's recommended list of appointments of City Councilmembers to serve as liaisons to City Commissions and outside agencies, committees, and boards, and confirming those appointments, with the exception of Valley Transportation Authority's Board Committees.

Motion/Second:

Councilmember Nuñez/Vice Mayor Dominguez

Motion carried by a vote of:

AYES: 4

NOES: 0

ABSENT: 1 (Phan)

ADJOURNMENT

Mayor Tran adjourned the joint meeting at 12:11 AM on Wednesday, January 16, 2019 in memory of Mrs. Henkins, age 100, of the Sunnyhills neighborhood of Milpitas.

The foregoing minutes were approved by Milpitas City Council on February 5, 2019.

Mary Lavelle
Milpitas City Clerk